



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

June 2, 2004

Reply To
Attn Of: ECO-088

Ref: 01-050-FHW

Federal Highway Administration
Attn: Mary Gray
711 South Capitol Way, No. 501
Olympia, WA, 98501

Washington Department of Transportation
Attn: Allison Ray, Environmental Coordinator
999 Third Ave. Suite 2424
Seattle 98104

OPTIONAL FORM 90 (7-90)

FAX TRANSMITTAL

of pages = 5

To: Allison Ray	From: Jonathan Friedman
Date: 6/2/04	Page: 1
Dept: Dept. of Transportation	206 553-0266
Fax: 206 382-5291	206 553-6784
NSN 7540-01-317-7300	5010-101 GENERAL SERVICES ADMINISTRATION

Dear Messrs. Gray and Ray:

The U. S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the proposed SR 99 Alaskan Way Viaduct & Seawall Replacement Project (CEQ No. 040159), dated March 2004, in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309, independent of NEPA, specifically directs EPA to review and comment in writing on the environmental impacts associated with all major federal actions and the document's adequacy in meeting NEPA requirements.

Based on our review and evaluation, we have assigned a rating of LO (Lack of Objections) to the draft EIS. This rating, and a summary of our comments, will be published in the *Federal Register*. A copy of the rating system used in conducting our review is enclosed for your reference.

First, we commend you on a very thorough, well-executed search for project alternatives. The work that your project team presented to the Resource Agency Leadership Forum (RALF), the Interagency working group for this project, from initial screening of goals and concepts to the final determinations of alternatives for analysis in the EIS, showed both the creativity and flexibility required for the complex Central Seattle waterfront site, with all of its limitations. In addition, all of your proposed alternatives incorporate multi-modal transportation features such as enhancements to existing facilities for non-motorized transportation, and expanded efforts to improve transit and reduce single-occupancy vehicle trips.

We have learned from information presented by the project team that a large volume of public comments have been received advocating dismantling of the existing Viaduct and no construction of a replacement tunnel, viaduct or surface street. This is distinctly different than

the no-action alternative you have described in the EIS because it proposes dismantling the Viaduct deliberately, and planning for alterations or expansion of other streets in the downtown area to replace traffic capacity from the Viaduct. Since this is a proposal not analyzed in the draft EIS, we recommend that the Final EIS address the effectiveness of this alternative in achieving the project purpose and need so that the public and the decision maker may have a final opportunity to evaluate how it compares to other alternatives prior to selection of the preferred alternative.

Hazardous Waste

In our scoping comments, we discussed our concerns with the handling of hazardous materials as an incidental part of construction of a replacement or rebuilt Viaduct. This could include sediment, groundwater, and construction process water. The project team has since taken major steps toward identifying locations where hazardous material is likely to be located, what contaminants are likely to be present, and how such material might be treated, remediated, or controlled in place, transported and disposed, and which entity(s) would be responsible for these tasks. We appreciate your successful efforts to resolve these questions at the earliest possible time.

Native American Coordination

We advised the lead agencies in our scoping comments to consult early with potentially affected Native American Tribes for their views on the effects of this project on Tribal treaty fishing areas. The EIS does a thorough job of documenting the coordination with potentially affected Tribal groups in regard to archeological sites and important cultural places, but the EIS should also include information on whether treaty fishing areas may be potentially affected and whether Tribes have been consulted. As we noted in our scoping comments, if Tribes report issues such as precluded access to tribal fishing, the Federal government may have to resolve this through government to government consultations, consistent with the government's trust responsibility to Native Americans, prior to the initiation of construction.

Effects on Aquatic Resources

In our scoping letter of February 2002, we suggested that you "consider including aquatic habitat restoration as an additional part of the purpose and need statement. Habitat restorationmay become an integral part of the project, requiring considerable effort and planning." The draft EIS states that all alternatives would include restoration of habitat functions along the central Seattle waterfront to mitigate project effects, and that enhancements beyond those required for mitigation might be undertaken to restore habitat functions that no longer exist along the shoreline.

The project team organized a conference during scoping in which experts on marine habitat in central Puget Sound presented a wealth of information on current research and opportunities for habitat enhancement and restoration in the project vicinity. While it is not yet certain if the U.S. Army Corps of Engineers will also be a lead agency for the seawall portion of this project and at least partially responsible for determining aquatic resource mitigation requirements, plans for habitat enhancements, particularly if needed for mitigation, are more

likely to be successful if developed and funded early. We encourage you to continue these advance efforts to explore habitat enhancement as your agencies make decisions on what to construct. We suggest that the Final EIS propose a conceptual mitigation plan and funding mechanism that the decision maker can commit to pursuing as this project moves toward construction.

EIS Format

Your agencies have made a determined effort to fundamentally revise the traditional format used for EISs, to make this EIS more readable, accessible and understandable to the public. We wish to commend you for the time and resources you devoted to making your vision a reality. In large measure, we think you have succeeded. Our comments on format are meant to be helpful to you in preparing the Final DEIS.

The purpose of NEPA is not to generate excellent paperwork, but to foster excellent action. There is no question that many EISs have become overly long and difficult for readers to understand. In revising the EIS format, there is a balancing act between presenting information in an accessible format to get meaningful public participation, and including enough detail to provide the decision maker with the information they need, as well as having enough depth in topic areas so that agencies with statutory jurisdiction or special expertise can provide accurate comments.


The alternatives Section, as the CEQ regulations conceived them, would be the heart of the EIS, sharply defining the issues and providing a clear basis for choice. Chapter 2 of the EIS presents the alternatives and briefly covers some of the impacts, but there is limited basis for comparison between them. One solution that would maintain brevity is to develop a table that compares and summarizes impacts by alternative to conclude the Chapter.

The impacts to each affected resource from the physical or human environment are now described in five Chapters instead of one, complicating the comparison of alternatives. As an example, if reviewers want to compare the impacts of each alternative on water quality, they must cross-reference five different Sections on water quality, one in each Chapter. We recommend that the environmental impacts to the alternatives be presented in one Chapter, rather than broken into five separate Chapters, by alternative. The present format also separates basic information on the alternatives (Chapter 2) from the description of how each alternative performs after construction (Questions 1 - 8 in Chapters 5 - 9).

Finally, some valuable and important information is only found in the Discipline Reports, (Appendices) and not summarized in the main report. For example, the Hazardous Waste Discipline Report contains an excellent discussion of potential problems that may be encountered in the handling of hazardous materials during construction, existing technologies to remedy these problems, and possible areas for further data collection. The EIS should contain concluding statements that briefly reflect this information and describe, if appropriate, how the impact of the handling of hazardous wastes on the environment might therefore differ under the proposed alternatives.

Thank you for the opportunity to provide comments on this project. If you would like to discuss this letter, please contact Jonathan Freedman of my staff at (206) 553-0266.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith Leckrone Lee", with a large, sweeping loop at the end.

Judith Leckrone Lee, Manager
Geographic Unit

Enclosure

cc: Tom Eaton, EPA WOO
Army Corps of Engineers, Regulatory Branch
Terry Swanson, WSDOE
Bob Donnelly, NMFS
Jennifer Bowman, DOT

**U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action***

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.